

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHERYL BESSER, individually and on
behalf of all others similarly situated;

Case No. 2:13-cv-12041-BAF-MAR

Plaintiff,

v.

FIRST NATIONAL BANK IN HOWELL,

Defendant.

ORDER

PURSUANT TO STIPULATION

This matter is before this Federal District Court as the result of a Stipulation of the parties' counsel (*see* below) that represents that Plaintiff Cheryl Besser and Defendant First National Bank In Howell have arrived at a settlement, and this Court being fully advised in the premises, it is ORDERED that:

- A. Plaintiff Cheryl Besser's personal, individual claims and causes of action against Defendant First National Bank In Howell are dismissed with prejudice and without further costs pursuant to the Stipulation (*see* below) and the parties' Confidential Settlement Agreement; and,
- B. The claims and causes of action, if any, of any alleged class members, which class is uncertified under the Federal Rules of Civil Procedure and federal law, are dismissed without prejudice; and,
- C. This Court shall retain jurisdiction to interpret and enforce, if necessary, the terms of the Stipulation (*see* below) and the parties' Confidential Settlement Agreement.

Date: July __, 2013

/s/ _____ DRAFT _____
Honorable Bernard A. Friedman
United States District Court Judge

STIPULATION OF DISMISSAL

Plaintiff Cheryl Besser (“Plaintiff”), and Defendant First National Bank In Howell (“Defendant”), by and through their undersigned counsel and pursuant to Fed. R. Civ. P. 41(a)(1)(A) and Fed. R. Civ. P. 23(e), hereby stipulate to the dismissal of this action, with prejudice as to Plaintiff’s individual claims, and without prejudice as to the claims of any alleged class members. No class has been certified in this action. Accordingly, class notice and Court approval of the settlement are not required under Fed R. Civ. P. 23(e). In exchange for the Plaintiff’s individual release of claims set forth in a Confidential Settlement Agreement and Release dated as July 24, 2013 (the “Settlement Agreement”) and such other consideration set forth in the Settlement Agreement, Defendant, without admitting any liability or violation, has agreed, among other things in the Settlement Agreement, to the following:

1. Consistent with the terms of the Settlement Agreement, Defendant will complete any remaining ATM modifications and/or ATM replacements pursuant to its ADA Compliance Plan to meet the 2010 Americans with Disabilities Act Standards for Accessible Design (“2010 Standards”), including any applicable safe harbor (the “Original Compliance Date”), and will provide written confirmation of its compliance to Counsel for Plaintiff.
2. Consistent with the terms of the Settlement Agreement, Defendant has agreed to implement and/or modify its ADA Compliance Policy to formalize its intent and commitment to maintaining its ATMs in compliance with Chapter 7, Section 707, of the 2010 Standards.
3. Consistent with the terms of the Settlement Agreement, Defendant has agreed to appoint an employee or officer to serve as an ADA Compliance Manager to oversee the implementation of the Defendant’s ADA Compliance Plan.

4. Consistent with the terms of the Settlement Agreement, Defendant has agreed to provide Counsel for Plaintiff with a Compliance Letter confirming its compliance with the 2010 Standards.
5. Subject to the terms and under the conditions of the Settlement Agreement, Defendant has agreed that Plaintiff's Counsel or their designee shall have the right to examine some or all of Defendant's ATMs for compliance with the 2010 Standards.

In accordance with the terms of this Stipulation and their Settlement Agreement, the parties request that the Court dismiss with prejudice Plaintiff's individual claims and dismiss without prejudice the claims of any alleged class members, and retain jurisdiction to interpret and enforce the terms of the Stipulation and Settlement Agreement entered into by the parties.

Dated: July 29, 2013

By: /s/ Sunshine R. Fellows

Sunshine R. Fellows

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